UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,604	06/14/2001	Sean W. March	NRT.0100US (14531RRUS01U)	6409

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *24 January 2008*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-3,5-13,19 and 25* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1,3,5,7,19 and 25* is/are rejected.
7) ☒ Claim(s) *2, 6, 8-13* is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to applicant's 01/24/2008 communications in the

application of March et al. for the "Protecting a network from unauthorized access" filed

06/14/2001. The amendment and response has been entered and made of record.   Claims 1-3, 5-

13, 19, 25 are pending in the application.

2.   The applicant should use this period for response to thoroughly and very closely proof

read and review the whole of the application for correct correlation between reference numerals

in the textual portion of the Specification and Drawings along with any minor spelling errors,

general typographical errors, accuracy, assurance of proper use for Trademarks ^{TM}, and other

legal symbols @, where required, and clarity of meaning in the Specification, Drawings, and

specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each

claim). Minor typographical errors could render a Patent unenforceable and so the applicant is

strongly encouraged to aid in this endeavor.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

4. Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter, specifically, as directed to "storage medium" or "a software routine".

The claimed *"an article comprising at least one computer-readable storage medium"* product or

"software routine" of claim 19 is non-statutory as at no time in the claim does applicant define

the software routine. A *storage medium* per se is not in one of the statutory categories. The

computer program limitation is not explicitly tied to the recited steps. Also, the claimed storage

medium reads on non-statutory embodiments of computer readable media drawn to signals. As

signals are not a tangible medium, the instant claims 8-11 do not recite a tangible result in a form

that is useful to the user of the process.

Claim 19 is direct to *"a computer-readable storage medium"* which is not supported by

either a specific asserted utility or a well established utility. Claim 19 merely defines *"a*

computer-readable storage medium" or *"data record for storing instructions"*, and is not

directed to statutory subject matter. The claim appears to be nothing more than a signal not

tangibly embodied in a manner so as to be executable and thus non-statutory for failing to be in

one of the categories of invention. It's not tangibly embodies and non-functional descriptive

material - data per se. Therefore, what applicant is attempting to claim as a computer program

product or data record as is known in the art. The claim is actually drawn to non-functional

descriptive material stored on a machine readable medium. The description given in the

specification does not cure this problem. In practical terms, claims define non-statutory

processes if they simply manipulate abstract ideas, e.g., a bid or a bubble hierarchy, without

some claimed practical application, Schrader, 22 F.3d at 293-94, 30 USPQ2d at 1458-59;

Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759.

5.   Claim 19 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the

claimed invention is not supported by either a specific asserted utility or a well established utility

for the reasons set forth above, one skilled in the art clearly would not know how to use the

claimed invention.

Claim Rejections - 35 USC ' 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of
>
> this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter
>
> as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which
>
> said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8.   Claims 1, 3 and 5, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Albert et al. (US#6,650,641) in view of Chiu et al. (US#6,744,767).

With respect to claims 1, 5, 7 and 25, the references disclose a novel system and method

for protecting access to a network, according to the essential features of the claim. Albert

discloses in Fig. 3C a block diagram illustrated how a subsequent data packet from client 304 is

routed by forwarding agent 302 to host 306, in which a Fixed Affinity Database 303 (*a storage*

module) that stores address and port translation information; Forwarding Agent (*a controller*)

that receives a datagram packet (*a data unit*) from the client 304 (*a first network*), wherein the

datagram includes a source address, a source port, a destination address, and a destination port

wherein the received datagram undergoes NAT translation whereby the source address,

destination address, source and destination ports are changed (See fig. 13 and col. 30, lines 1-

26); wherein the Source address and Port number is associated with the Client 304 (*first device*)

and the Destination address and port number is associated with Host destination device 310 (*a*

second device) whereby the forwarding agent via NAT mapping translates the received packet

into alias address and port for the first and second device (Col. 13, lines 1 plus).

However, Albert et al. does not disclose expressly the step of determining, by a protocol

filter, if the data unit contains a payload according to a predetermined protocol, and denying, by

the protocol filter, entry of the data unit if the data unit does not contain the payload according to

the predetermined protocol. In the same field of endeavor, Chiu et al. teach a method and

networks of voice gateways (22) for bandwidth management during implementation of Quality

of Service using Internet Protocol provisioning including a storage module (54 memory buffer)

(See Fig. 2, Col 5, lines 53-55) to store a threshold value (global and local thresholds) for a

communications session, the threshold value representing an acceptable rate of incoming data

units from the external network to the first network (maximum incoming packet rate), and a

controller (51) adapted to deny further entry of data units from the external network to the first

network in the communications session in response to the controller detecting that the rate of

incoming data units exceeds the threshold value (See Fig. 2, Col. 5, lines 32-58).

Regarding claim 3, Albert et al. further teach a network access method wherein it is a fundamental network address translation scheme by matching the source address with one or more entries of a network address translation mapping table server (26) (See Fig. 11, and Col. 28, lines 1 plus).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Chiu et al. in Savoldi et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of a memory buffer to store a global and local thresholds for a communications session, representing an acceptable maximum incoming packet rate and a controller to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data units exceeds the acceptable maximum incoming packet rate. The motivation to do so would have been to store a global and local thresholds to a memory buffer for a communications session, representing an acceptable maximum incoming packet rate and a controller to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data units exceeds the acceptable maximum incoming packet rate, as suggested by Chiu et al. in Fig. 2, Col. 5, lines 32- 58.

Allowable Subject Matter

9.   Claims 2, 6, 8-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10.   The following is an examiner's statement of reasons for the indication of allowable

subject matter: The closest prior art of record fails to disclose or suggest wherein matching the

source address with the information comprises matching the source address with one or more

entries of a network address translation mapping table; wherein determining if the data unit

contains a payload according to the predetermined protocol comprises determining if the data

unit contains a payload according to a Real-Time Protocol or Real-Time Control Protocol;

wherein storing the profile information comprises storing a threshold representing a maximum

acceptable rate of incoming data units from an external network to the first network, as

specifically recited in claims.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        The Sollee (US#2007/0094412) is cited to show the providing telephony service to

terminals behind a firewall and/or a network address translator.

        The Sollee (US#2007/0192508) show the providing network address translator info.

        The Chang et al. (US#2004/0100976) is cited to show the dynamic network address

translator system and method of transparent private network device.

        The Chang (US#2005/0135359) is cited to show the system and method for ISPEC

compliant network address port translation.

        The Berkvens et al. (US#2008/0168181) is cited to show the initiating communication

sessions from a first computer network to a second computer network.

        The Kitada (US#2008/0075097) show the IP application service providing system.

The Yeom (US#2005/0254482) is cited to show the apparatus and method for voice

processing of VoIP.

The Garg et al. (US#2006/0288411) is cited to show the system and method for

mitigating denial of service attacks on communication appliances.

12.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The

examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (571) 272-2600.

13.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

02/15/2009

/Man Phan/

Primary Examiner, Art Unit 2419